IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

Crl.Rev.Pet.No. 3359 of 2007()

CC.489/1999 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ADOOR

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REVN. PETITIONER: DEFACTO COMPLAINANT

AYYAPPAN CHETTIAR, S/O.SANKARAN,
THAZHATH PUTHEN VEEDU, NELLIMUGAL P.O.,
MANAKKALA, ADOOR.

BY ADV. SRI.MVS.NAMBOOTHIRY
SRI.R.VINOD

RESPONDENTS: ACCUSED & STATE

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1. MADHAVI, MADHUMANDIRATHIL VEEDU,
THUVAYOOR THEKKU MURI, KADAMPANADU.

2. SANTHAMMA, RESIDING AT DO. DO.

3. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 3359 OF 2007

Dated this the 20th day of September, 2007

O R D E R

The revision petitioner, who is the defacto complainant in C.C.No.489/99 on the file of the JFCM, Adoor, challenges the judgment of acquittal dated 25.6.2007 passed by the court below under section 248(1) Cr.P.C. acquitting the two lady accused for offences punishable under sections 427 and 506(ii) read with section 34 IPC.

2. The case of the revision petitioner was that the two accused ladies residing in the rented building belonging to the revision petitioner, in furtherance of their common intention, had committed mischief on 12.10.98 at about 12 noon by A1 calling filthy words and intimidating the defacto complainant and showing a dangerous weapon and A2 taking an axe from the courtyard of the house and A1 using a spade dismantled the northern wall of the kitchen at the central portion for a length of 1.96 metres and both the accused removed the roof of the kitchen thus causing a loss of Rs.10,000/- to PW1.

3. On the side of the prosecution, 7 witnesses were

examined as PWs 1 to 7 and 5 documents were got marked as Exts.P1 to P5.

4. The accused denied the incriminating circumstances put to them in the evidence for the prosecution and maintained their innocence. They examined 4 witnesses as DWs 1 to 4 and got marked 2 documents as Exts.D1 and D2.

5. Apart from the fact that eventhough the occurrence took place on 12.10.98 the first information was lodged by the revision petitioner only four days thereafter and consequent on the failure by the police to register a crime he had persisted his complaint by filing a private complaint before the court and getting it forwarded to the police under section 156(3) Cr.P.C., the learned Magistrate has made a careful appraisal of the oral and documentary evidence to arrive at the conclusion that the prosecution has miserably failed to prove the case against the accused beyond reasonable doubt and they were accordingly extended the benefit of doubt. It is the said judgment which is assailed in this revision by the defacto complainant examined as PW1.

6. Eventhough the learned counsel for the revision

petitioner assailed the order of acquittal on various grounds, it is not possible for this court, sitting in revision, to say that the conclusion reached by the trial Magistrate, who had the unique advantage of seeing the witnesses and assessing their credibility, is fraught with inexcusable infirmities. This court, sitting in the rarefied revisional jurisdiction, will be loathe to re-appreciate the evidence and come to a different conclusion even if it were possible.

This revision is accordingly dismissed.

(V. RAMKUMAR, JUDGE)

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